

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES, et al.,)	
)	
Plaintiffs,)	
v.)	No. 1:23-cv-00108-LMB-JFA
)	
GOOGLE LLC,)	
)	
Defendant.)	

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS’ MOTION TO SEAL

Pursuant to Local Civil Rule 5(C) and the Court’s Order regarding Defendant Google’s and non-parties’ sealing and redaction requests, (Docket no. 1147), Plaintiffs respectfully move this Court to seal portions of Plaintiffs’ Proposed Findings of Fact and Conclusions of Law. The withheld information is derived from exhibits and deposition designations that were requested to be sealed in (1) the 33 non-parties’ Disclosure Objections, (*see* Docket no. 1147, at 2 n.1), and (2) Defendant Google’s Disclosure Objections, (Docket no. 985), as amended, (Docket no. 1142). The Court recently granted the sealing and redaction requests of 33 non-parties’ and ordered Google to revise its request for sealing and redaction, (Docket no. 1147). Subsequently, Google withdrew certain sealing and redaction requests, (Docket no. 1142), and has been meeting and conferring with the Plaintiffs regarding its remaining disclosure objections. The unredacted Proposed Findings of Fact and Conclusions of Law have been filed electronically using the sealed filing event. For ease of the Court’s review, the Government has highlighted the information withheld pursuant to a disclosure objection filed by one of the 33 non-parties (light green) and the Defendant Google (light blue).

Plaintiffs request that the Court seal the withheld information from the public docket in accordance with its Order regarding the parties’ and non-parties’ sealing and redaction requests,

(Docket no. 1147). The non-party redactions are comprised of non-party information that is covered in the Court's Order. Defendant Google's redactions consist of information contained in its disclosure objections. As instructed in the Court's Order, (Docket no. 1147), the Parties are meeting and conferring regarding Defendant Google's disclosure objections, and the Plaintiffs will refile a less redacted Proposed Findings of Fact and Conclusions of Law in accordance with any subsequent agreement between the Parties and/or Court Order regarding Defendant Google's Disclosure Objections.

ARGUMENT

Public access to judicial records is "protected both by the common law and the First Amendment." *Stone v. Univ. of Md. Med. Sys. Corp.*, 855 F.2d 178, 180 (4th Cir. 1988). "The common law presumes a right to inspect and copy judicial records and documents." *Id.* (citing *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 (1978)). However, the presumption in favor of public access can be overcome by "showing some significant interest that outweighs the presumption." *Rushford v. New Yorker Magazine, Inc.*, 846 F.2d 249, 253 (4th Cir. 1988). Accordingly, "before a district court may seal any court documents," "it must (1) provide public notice of the request to seal and allow interested parties a reasonable opportunity to object, (2) consider less drastic alternatives to sealing the documents, and (3) provide specific reasons and factual findings supporting its decision to seal the documents and for rejecting the alternatives." *Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000); *see also* Local Civ. R. 5(C).

Plaintiffs have redacted information consistent with the disclosure objections filed by Google and the 33 non-parties that filed disclosure objections. The court has ruled on certain disclosure objections. *See* Docket no. 1147. These redactions are in accordance with the Court's Order at Docket no. 1147.

CONCLUSION

For the foregoing reasons, Plaintiffs' respectfully request that the Court seal portions of Plaintiffs' Proposed Findings of Fact and Conclusions of Law.

Dated: August 19, 2024

Respectfully submitted

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